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ORGANIZATION OF THE WORK OF THE SESSION

Written statement submitted by the Lawyers Committee for Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is distributed in accordance with Economic and Social Council resolution 1296 (XLIV).

[27 January 1993]

THE SITUATION OF HUMAN RIGHTS IN GUATEMALA

1. The Lawyers Committee for Human Rights believes that the situation of human rights in Guatemala warrants additional scrutiny by the Commission for Human Rights. Guatemala continues to present a consistent pattern of gross violations of human rights. For this reason, we again urge the Commission to return the situation of human rights in Guatemala to agenda item 12 rather than placing it under item 21, Advisory services.

2. As the Lawyers Committee has suggested at previous sessions of the Commission, the decision to discontinue the mandate of the Special Rapporteur for human rights in Guatemala was, in our view, premature, coming on the heels of Guatemala's first election of a civilian President in more than 30 years. While the Lawyers Committee is gratified to note that Guatemala has recently marked seven years of civilian rule, events in that period have only confirmed that judgement.

3. Despite an overall decrease during 1992 in documented violations of human rights in comparison with the prior year, the state of human rights in Guatemala reflects little institutionalized improvement. Acts against particular sectors, such as the media and the human rights community, continue unabated. For instance, the daily newspaper Siglo Veintiuno has been the target of numerous incidents. In July, Siglo Veintiuno correspondent Omar Cano was beaten, tortured and nearly killed by the army in the Petén region. Mr. Cano had been investigating illicit military trafficking in lumber. Prior to that, in July, the paper's editorial board received death threats; later some 6,000 copies of the newspaper were burned in several sites in Guatemala City.

4. Perhaps most significant, the dim prospects for justice in human rights cases remain virtually unchanged since the end of military rule. Two successive civilian administrations have been unable to wrest from the military its illegitimate prerogatives, including a de facto veto over the justice system.

Murder of anthropologist Myrna Mack

5. Military impunity for human rights violations remains the rule, subject to isolated and costly exceptions. In the case of anthropologist Myrna Mack, murdered in September 1990, the efforts of her family, the human rights office of the Archdiocese of Guatemala City, and a host of human rights groups outside of Guatemala have ensured that the investigation was carried forward and that a defendant, Noel de Jesús Beteta, a former member of the Presidential security force within the Ministry of Defence, was brought to trial. While a verdict is not yet forthcoming more than 2½ years after the killing, holding the trial itself represents a nearly unique accomplishment.

6. However, the price of these achievements highlights the dimensions of the obstacles to justice. Despite civilian rule, it appears to require an international outcry to prosecute military personnel for human rights violations. Without the extraordinary determination of her sister Helen Mack, and the pressure exerted through the efforts of domestic and international human rights groups, the case against Beteta might never have gone forward. No less than 12 different courts have handled the case, many of them clearly demonstrating a desire to avoid responsibility for the investigation or trial. And the police investigator in charge of this case, José Mérida Escobar - whose report implicating the defendant was initially covered up - was murdered shortly after ratifying his report in court. The investigation of his murder is a frightening reprise of what transpired in the Myrna Mack investigation: the release of a second, altered, police report, with certain suspects having been edited out.

7. Mérida Escobar's death, which is still unsolved, reminds those responsible for upholding justice that to confront elements of military power in Guatemala is to invite deadly reprisal. This message was not lost on his police partner on the case. He abandoned the investigation and fled the country shortly after Mérida was murdered.

8. More recently, an important new witness in the case has been the subject of intimidation in the days leading up to his testimony in court. On 23 January, armed men fired shots into the front of the home of Juan Carlos Marroquin Tejada, an eyewitness to the killing who recently came forward. The next day, Marroquin, and his cousin, José Arnoldo Tejada who was also near the scene of the crime, each received written death threats from a group identifying itself as "the Jackson gang". These warned the men against testifying, saying that by giving their testimony, they would be "selling their lives".

9. Weeks earlier, armed men in military uniforms forced their way into the offices of the Institute for the Advancement of the Social Sciences (Instituto para el Avance de las Ciencias Sociales) (AVANCSO), where Myrna Mack worked before her murder. They threatened the watchman with death, causing him to quit his job shortly thereafter.

10. Despite evidence from several sources suggesting that Beteta, then a low-ranking active duty soldier, acted with others in a premeditated military operation, no judicial investigation has been opened to probe the possible involvement of military officers in the murders of Myrna Mack or José Mérida Escobar. To date, no Guatemalan military officer has been convicted of a human rights violation. In hundreds, if not thousands, of additional cases which have not achieved the notoriety of the Mack murder, the chances of mounting a meaningful investigation or prosecution of military personnel remain virtually nil.

Treatment of human rights organizations

11. In this context, Guatemalan human rights groups continue to monitor and publicize human rights violations and denounce those believed to be responsible, in the hope of holding them accountable. The Guatemalan army has responded with renewed efforts to discredit such organizations. Especially troubling about these developments is President Serrano's active and public support of the military's actions.

12. In recent months, Ronald Ocheata of the Archdiocese human rights office, Amílcar Méndez of CERJ (Council of Ethnic Communities Runajel Junam), Factor Méndez of CIEPRODH (Centre for Investigation, Study and Promotion of Human Rights) and David Holiday of Americas Watch have all been targeted in government statements which directly or indirectly implicated them in Guatemala's armed insurgency. The number and frequency of such accusations leaves little room for doubt that they reflect a deliberate campaign to intimidate the human rights movement. For Guatemala's people, the impact of these actions is to discourage reporting of human rights violations to groups publicly tainted by Guatemala's highest military and civilian officials.

13. President Serrano's role in these denunciations undermines his self-proclaimed commitment to human rights and against military impunity. He publicly and unconditionally supported the charge by Defence Minister José Domingo García Samayoa that Ronald Ocheata and both Amílcar and Factor Méndez were "clear instruments of subversive groups".

14. President Serrano added that the Archdiocese human rights office obstructed justice by the efforts to help Maritza Urrutia, victim of an alleged kidnapping by security forces, to obtain a visa from the United States Government. Serrano alleged that Ocheata removed the potential complaining witness from the jurisdiction, preventing her from testifying, presumably in a prosecution of her alleged captors. This charge is patently unfounded, since no prosecution was then or is now under way. Efforts to help Ms. Urrutia obtain a visa, which was granted by the Government of the United States on the basis of her allegations, cannot in any event be classified as obstructing justice. No legal action has been initiated by the Guatemalan Government in the wake of these accusations.

15. Amílcar Méndez is currently being prosecuted for terrorism and other alleged crimes, although several circumstances point to evidence tainted by severe police misconduct. According to the office of Guatemala's Human Rights Ombudsman, the two witnesses against Méndez were mistreated in order to coerce an accusation that Méndez had attempted to recruit them for the guerrilla movement. In fact, one of the witnesses subsequently recanted his accusation.

16. In late December, Defence Minister General José Domingo García Samayoa held a press conference in which he disclosed confiscated correspondence referring to contact between Americas Watch and persons the army alleges are guerrillas. Although the army subsequently gave assurances that General Samayoa had not intended to accuse the group or its representative of ties to the guerrillas, the prevailing view among the local and international media was that the Defence Ministry had in fact made such an allegation.

Recommendations

17. International pressure to convince the Guatemalan Government that its own interests are best served when it defends and protects the human rights of its people is essential. Guatemala's military, and others, must not be able to depend on the existence of an elected government to stay international action in the face of persistent and widespread abuses of human rights.

18. The Lawyers Committee urges the Commission on Human Rights to recognize that the measures taken to date are simply insufficient to address the fundamental problem of impunity and the generalized climate of fear and instability which it creates among the population of Guatemala. Accordingly, the Lawyers Committee once again asks the Commission to condemn unequivocally human rights violations by the armed forces, as well as acts of intimidation against the human rights movement, and to name a Special Rapporteur to monitor the situation of human rights and fundamental freedoms in Guatemala.